

Honorable Chairperson and Judiciary Committee Members:

It is often difficult to believe that we live in the 3rd millennium and the 22nd century! House Bill 323 is an embarrassment to the good and common law that governs our legal and business arrangements in this great state of Montana. And it shames the funeral industry for it looks backward toward the loss of control by "the mortuary club" and its loss of revenues. As a protectionist measure, it is like General Motors attempting to reign-in the entire Japanese auto industry. There is nothing of benefit in this proposed legislation for it discriminates against the poor and the economically challenged, it discriminates against choice, options and possibilities, and it so muddies the lines between grieving families and the choices they will make to bury their dead and their choice of providers of funeral services. And it further confuses the lines of responsibilities between the Funeral Board and the Department of Labor and Industries.

HB 323 will guarantee more control to morticians and only to morticians and will outlaw the rights we have all enjoyed to bury our dead, our loved-ones, by the conscience of our beliefs, the tenants of our religions, the value of our customs and the choice we make to use our bank accounts the way we see fit. "The-next-of-kin" will be effectively replaced by "the-next-order-of-mortuary-only-practice". The first person responsible for funeral arrangements should be the surviving spouse but there is no provision to include a common-law arrangement nor a domestic partner.

This legislation effectively negates the independent licensed crematory operator and it re-writes the current code to favor morticians only (Sec 37-19-10 MCA). This legislation lists the order of who makes funeral arrangements and is so complicated that the mortician becomes the final arbiter (Sec 3-10 & Sec 8). This legislation favors the pre-payment plans that are often risky and dangerous (Sec 3). In fact, the only legally binding arrangements the morticians must follow are those stipulated by pre-payment to a specific funeral home. But people do die outside the area of their pre-payment plan. This legislation gives to morticians duties that until now have resided with families. It would make it illegal for anyone to move a dead body but a mortician whereas we have all had the right to do so (Sec 10-20). It would make illegal the plans that most of us make for funeral services by taking the suggestions of clergy or rabbi for readings or rituals (Sec 10-1). It pays no attention to the funeral customs of cultures dissimilar to ours, namely those of Asia, of the island nations, of American Indians, or of Africa. It is conceivable that a well-intentioned but inept mortician would include the hymn "The Old Rugged Cross" at a Jewish funeral or "Onward Christian Soldiers" at Islamic burial services.

One day soon we will see "cremation-on-line" web sites in spite of interstate commerce acts, and we will see "bargain basement burials from Funerals-Are-Us" because the mortuary business has been unwilling to accommodate social change and public responsibility. The state can and must regulate the business of funerals but it must not limit the familial privilege, the private activities and the burial customs of its citizens. I do not think there is a social scientist, a philosopher or theologian, an anthropologist, a social or welfare caseworker nor any reasonably informed citizens who would support HB 323. Only the morticians of the funeral industry could be in favor of this proposal and they are hoping that you will not carefully read and see the flaws in this proposal. There are a number of states that have reasonable, inclusive and common sense mandates which could have been used as models for this legislation.

For the above reasons and because HB323 smacks of a monopoly by a narrow definition of service and business, I ask that you, the honorable members of this committee, suppress this proposal. Please do not send this to the House of Representatives for consideration. This is very poor legislation and not worthy of consideration. I concur with the Funeral Consumers Alliance in their appraisal of this proposal: "bad for consumers and bad for business."

Thank you for your consideration.

J. Thomas Wojtowick
373 Burnette Creek Drive
Lewistown, Fergus County, Montana 59457
406-538-3739